IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 4669 of 2007(S)

AGAINST THE ORDER DATED / / IN IN IA 85/2006 IN
WTOA.1/2005 of WAKF TRIBUNAL, KAVARATTI

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PETITIONER:
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1. ASHARAYACHETTA CHERIYAKOYA,
KADAMATH ISLAND, LAKSHADWEEP.

2. PAKKRIYACHETTA KUNHIKOYA,
KADAMATH ISLAND, LAKSHADWEEP.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:
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1. PUTHIYATHANODA SAYED SHEIK MUSLIAR,
KADAMATH ISLAND.

2. THE LAKSHADWEEP STATE WAKF BOARD,
KAVARATTI.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, ALONG WITH CRP NO. 146 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 4669/2007

EXT.P1-TRUE COPY OF THE ORDER DATED 18./12.2006 OF THE WAKF TRIBUNAL, LAKSHADWEEP IN WTOA NO.1/2003

EXT.P2-TRUE COPY OF THE ORDER IN IA 85/2006 IN WTOA 1/2003

// TRUE COPY //

P.S. TO JUDGE

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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W.P.(C) NO.4669/2007 & C.R.P.No.146/2007

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Dated this the 7th day of June, 2007

JUDGMENT

T.R. Ramachandran Nair, J.

The petitioners herein are the same. C.R.P.No.146/2007 is filed against the order dated 18.12.2006 in I.A.No.85/2006 in W.T.O.A.No.1/2003 of the Wakf Tribunal, Lakshadweep. As per the above order, the interlocutory application filed by the petitioners to get themselves impleaded in the main matter, was dismissed for the reason that the O.A. itself had been disposed of. Writ Petition No.4669/2007 is filed by the petitioners seeking to quash the said Ext.P1 order passed in W.T.O.A. No.1/2003. According to the petitioners, the first respondent Shri Therakkal Koyamma who was acting as Khalifa in the Mohiyudeen mosque, died during the pendency of the case. He was contesting the matter. On his death, the petitioners filed I.A. No.85/2006 to get themselves impleaded as parties claiming that the first petitioner is the second Khalifa selected by the area committee and is conducting 'Ratheeb' in the place of the deceased Koyamma.

2. It is averred that the interlocutory application was heard and orders

were reserved in the matter and subsequently the case was posted in the camp sitting at Kozhikode. Thereafter, W.T.O.A. No.1/2003 was posted for hearing at Kavaratti which was disposed of by order dated 18.12.2006 and on the same day that I.A.No.85/2006 was dismissed, obviously after pronouncement of the orders in W.T.O.A.No.1/2003.

3. Heard counsels for the parties. It was pointed out by counsel for petitioners that the orders passed are erroneous, and the application for impleading petition should have been allowed before proceeding with the main matter. We notice that the first respondent died pending the main case and petitioners wanted to get themselves impleaded and contest the matter. It cannot be said that they are not proper and necessary parties.

4. Hence, it is only in the interest of justice that the petitioners are allowed an opportunity to get themselves impleaded and contest the proceedings.

5. Therefore, we quash Ext.P1 in Writ Petition No.4669/2007 and set aside the order in I.A. No.85/2006 in W.T.O.A. No.1/2003 which is the subject matter in C.R.P.No.146/2007. The impleading petition will stand allowed and the writ petitioners are impleaded as additional respondents 2 and 3. The Tribunal will dispose of the matter afresh expeditiously, if necessary, after permitting additional respondents 2 and 3 to adduce

evidence. The present arrangement with regard to conduct of 'Ratheeb' will continue till the disposal of the application. However, we make it clear that during the pendency of the application before the Tribunal, it will be open to either party to move for appropriate interim orders including modification of the present arrangement and it will be open to the Tribunal to consider such application and pass appropriate orders in accordance with law, having regard to the facts and circumstances of the case.

The writ petition and the revision petition are disposed of accordingly.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)

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